IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 30TH OCTOBER 2007 / 8TH KARTHIKA 1929

Bail Appl..No. 6507 of 2007()

(CRIME NO.19/2004 OF MATTANCHERI POLICE STATION)

PETITIONER:

T.P.SIDDIQUE, AGED 34 YEARS,
S/O.ABOOBACKER HAJI, THALAPPOYIL HOUSE,
KODUVALLY SOUTH, P.O.KODUVALLY, KOZHIKODE
DISTRICT.

BY ADV. SRI.K.MUHAMMED SALAHUDHEEN

RESPONDENT: STATE:

STATE OF KERALA,
THROUGH THE C.I. OF POLICE, MATTANCHERI
CIRCLE, REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 30/10/2007 ALONG WITH B.A.NO.6508 OF 2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

KSS

R.BASANT, J.

B.A.Nos.6507 & 6508 of 2007

Dated this the 30th day of October 2007

O R D E R

These applications are for anticipatory bail. The petitioners apprehend arrest as accused in crime No.19/04 of Mattanchery police station registered inter alia under Section 468 I.P.C.

2. The de facto complainant, a trader, was served with a notice of demand. Under such notice, huge amounts were demanded from him. He realised then that articles were transported from the State of Kerala to the State of Karnataka using forged delivery notes, N forms and invoices in the name of the de facto complainant. The crime was registered as early as on 6/1/2004. The investigation did not make any progress. It is, at that stage, the present Circle Inspector of Police has taken charge and he has started conducting the investigation. His investigation has revealed that lorry loads were conveyed in vehicles belonging to the petitioners herein from Kerala to Karnataka using the forged documents in respect of the de facto complainant. The petitioners have been arrayed as accused now. The petitioners apprehend imminent arrest.

3. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. They are only owners of vehicles. They drive their vehicles also. They have nothing to do with the forgery of the documents. They have no role to play in the alleged

illicit transportation of consignments from Kerala to Karnataka. They are innocent drivers. They cannot be mulcted with knowledge or responsibility for the nature of the documents used by the consignors or consignees in the vehicle. In these circumstances, the petitioners may be granted anticipatory bail, submits the learned counsel for the petitioner.

4. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the investigation reveals the complicity of the petitioners. They are owners of the vehicles. It is submitted at the Bar by the learned counsel for the petitioner that the petitioners are drivers as well. Vehicles were used for illicit transportation making use of the forged documents in the name of the de facto complainant. All present indications point to the complicity of the petitioners. They will have to be arrested and interrogated. If they give satisfactory explanation, there is no reason why such explanation will not be accepted. At any rate, the petitioners may not, at this stage of the investigation be permitted to arm themselves with an order of anticipatory bail. Such course would hamper the smooth course of investigation. The investigation has to take strides ahead. No breakthrough has been made in the investigation so far. In these circumstances, the petitioners may not be granted anticipatory bail, submits the learned Public Prosecutor.

5. Having considered all the relevant circumstances, I find merit in the opposition by the learned Public Prosecutor. I am satisfied that there are no features in this case which would justify invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioner must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

6. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007